



State of California
Employment Training Panel

Arnold Schwarzenegger, Governor

October 2, 2008

Nadine Rothermel
Global Operation Manager
Agilent Technologies, Inc.
30341 Goodspring Drive
Agoura Hills, CA 91301

Dear Ms. Rothermel:

Enclosed is our final report relative to our review of Agilent Technologies, Inc.'s compliance with the Employment Training Panel Agreement No. ET04-0467 for the period December 31, 2003, through December 30, 2005.

Also enclosed is a demand letter for payment of costs disallowed in the review report. Payment is due upon receipt of this letter. If you wish to appeal the review findings, you must follow the procedure specified in Attachment A to the review report.

We appreciate the courtesy and cooperation extended to our auditor during the review. If you have any questions, please contact Charles Rufo, Audit Director, at (916) 327-5439.

Sincerely,

Original signed by:

Charles Rufo
Audit Director

Enclosures

cc: Teresa Roche, Vice President & Chief Learning Officer
Phillip Herrera, Herrera & Company

AGILENT TECHNOLOGIES, INC.

Agreement No. ET04-0467

Final Review Report

For The Period

December 31, 2003 through December 30, 2005

Report Published October 2, 2008

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Employment Training Panel
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ET04-0467.fnl

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REVIEW REPORT

Summary

We reviewed Agilent Technologies, Inc.'s compliance with Agreement No. ET04-0467, for the period December 31, 2003, through December 30, 2005. Our review pertained to training costs claimed by the Contractor under this Agreement. Our review was performed during the period December 17, 2007, through January 14, 2008.

The Employment Training Panel (ETP) reimbursed the Contractor a total of \$2,318,039. Our review supported \$2,289,282 is allowable. The balance of \$28,757 is disallowed and must be returned to ETP. The disallowed costs resulted from 53 trainees who received training prior to the Phase II start date, 17 trainees employed in ineligible occupations, one trainee who did not meet full-time employment requirement, and one trainee who did not meet the minimum wage requirement. In addition, we noted an administrative finding for inaccurate reporting of trainee wage rates.

REVIEW REPORT (continued)

Background

Agilent Technologies, Inc. (Agilent) is a manufacturer of products that sense, analyze, display, and communicate data for use in the life sciences, chemical analysis, communications, and electronics industries. Headquartered in Palo Alto, California, Agilent operates three businesses: life sciences and chemical analysis, test and measurement, and semiconductor products, all supported by a central research laboratory. Agilent has more than 20,000 products available, many of them disease detectors such as the “Lab-On-A-Chip,” which has provided cheaper, faster, and more efficient tests that have resulted in major disease and drug discoveries.

This is the second ETP training project, and under this project, Agilent would retrain 2,700 California workers to continue its transition to a high performance workplace, stimulate exports, and retain its workforce in California.

This Agreement allowed Agilent Technologies, Inc. to receive a maximum reimbursement of \$2,632,500 for retraining an estimated 2,700 employees. During the Agreement term, the Contractor actually placed 2,750 trainees and was reimbursed \$2,318,039 by ETP.

Objectives, Scope, and Methodology

We performed our review by authority of Title 22 California Code of Regulations, Sections 4443 and 4448. Our scope was limited to reviewing the Contractor’s compliance with trainee eligibility and post-training requirements specified in the Agreement. We did not review the Contractor’s records for compliance with training attendance or other Agreement requirements.

Specifically, our review scope included, but was not limited to, conducting compliance tests to determine whether:

- Trainees were eligible to receive ETP training.
- Trainees were employed continuously full-time with a participating employer for 90 consecutive days after completing training, and the 90-day retention period was completed within the Agreement term.
- Trainees were employed in the occupation for which they were trained and earned the minimum wage required at the end of the 90-day retention period.

REVIEW REPORT (continued)

Conclusion	As summarized in Schedule 1, the Summary of Review Results, and discussed more fully in the Findings and Recommendations Section of our report, our review supported \$2,289,282 of the \$2,318,039 paid to the Contractor under this Agreement is allowable. The balance of \$28,757 is disallowed and must be returned to ETP.
Views of Responsible Officials	<p>The review findings were discussed with Nadine Rothermel, Global Operation Manager, and Phillip Herrera, Herrera & Company, during a telephone exit conference held on January 23, 2008. Ms. Rothermel agreed to bypass issuance of the draft report and proceed to the final audit report. Furthermore, Ms. Rothermel stated they would like to offset the disallowed costs from this review report with their current ETP project [ET06-0289].</p> <p>The issuance of your final review report has been delayed by the audit unit. Therefore, ETP waived the accrual of interest for the disallowed costs beginning January 29, 2008, through the issue date of this final audit report. The interest waiver (adjustment) was \$1,735.88, which was deducted from the total accrued interest.</p>
Appeal Rights	If you wish to appeal the review findings, it must be filed in writing with the Panel's Executive Director within 30 days of receipt of this audit report. The proper appeal procedure is specified in Title 22, California Code of Regulations, Section 4450 (attached).
Records	Please note the ETP Agreement, Paragraph 5, requires you to assure ETP or its representative has the right, "...to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents or other evidence directly related to the performance of this Agreement by the Contractor... This right will terminate no sooner than four (4) years from the date of termination of the Agreement or three (3) years from the date of the last payment from ETP to the Contractor, or three (3) years from the date of resolution of appeals, audits, claims, exceptions, or litigation, whichever is later."

Charles Rufo
Audit Director

Fieldwork Completion Date: January 14, 2008

This report is a matter of public record and its distribution is not limited. The report is intended for use in conjunction with the administration of ETP Agreement No. ET04-0467 and should not be used for any other purpose.

SCHEDULE 1 – Summary of Review Results

AGILENT TECHNOLOGIES, INC.

AGREEMENT NO. ET04-0467

FOR THE PERIOD

DECEMBER 31, 2003 THROUGH DECEMBER 30, 2005

	<u>Amount</u>	<u>Reference*</u>
Training Costs Paid By ETP	<u>\$ 2,318,039</u>	
Costs Disallowed:		
Ineligible Training	13,395	Finding No. 1
Ineligible Trainee Occupations	13,146	Finding No. 2
Full-Time Employment Requirement Not Met	1,176	Finding No. 3
Minimum Wage Requirement Not Met	1,040	Finding No. 4
Inaccurate Reporting	<u>-</u>	Finding No. 5
Total Costs Disallowed	<u>\$ 28,757</u>	
Training Costs Allowed	<u><u>\$ 2,289,282</u></u>	

* See Findings and Recommendations Section.

FINDINGS AND RECOMMENDATIONS

FINDING NO. 1 – Ineligible Training Agilent Technologies, Inc. (Agilent) reported 53 Job No. 2 trainees started training prior to the allowable Phase II training start date specified in the Agreement. As a result, we disallowed \$13,395 in training costs claimed for these 53 trainees.

Exhibit A, Chart 1 of the Agreement between Agilent and ETP identified Phase II trainees were to be placed in Job No. 2, and that “Training for Phase II trainees will not commence until August 27, 2004.”

Paragraph 2(b) of the Agreement states, “Reimbursement for class/lab and videoconference training for trainees... will be based on the total actual number of training hours completed by training delivery method for each trainee, up to the maximum specified in Chart 1, providing the minimum and no more than the maximum hours are met.” Exhibit A, Chart 1 required Job No. 2 trainees complete between 24 to 200 class/lab hours.

Agilent reported training dates and hours for each trainee via the ETP Online Tracking System. Based on a review of the reported training, we determined Agilent received reimbursement for 53 Job No. 2 trainees who started training prior to August 27, 2004. For audit materiality, all trainees who received at least 22.75 of the 24 required training hours, on or subsequent to August 27, 2004, had only a portion of their training costs disallowed. However, for all trainees whose allowable training hours were less than 22.75 hours, the entire cost per trainee was disallowed.

The table below and continued on the following page shows the reported training start and end dates, training hours reported, training hours disallowed (hours prior to August 27, 2004), and allowable training hours by trainee.

Trainee No.	Training Start Date	Training End Date	Reported Training Hours	Training Hours Disallowed	Allowable Training Hours
1	08/03/04	08/30/05	94	16	78
2	08/24/04	09/16/04	28	24	4
3	08/11/04	04/06/05	31	8	23
5	08/24/04	07/19/05	56	24	32
6	04/27/04	09/13/05	38	12	26
7	04/19/04	02/10/05	38	16	22
8	05/18/04	06/13/05	61	10	51
10	05/18/04	05/19/05	71	17	54
11	08/04/04	08/16/05	102	8	94
12	03/23/04	02/10/05	28	24	4

FINDINGS AND RECOMMENDATIONS (continued)

Trainee No.	Training Start Date	Training End Date	Reported Training Hours	Training Hours Disallowed	Allowable Training Hours
13	08/04/04	12/02/04	26	8	18
15	01/13/04	01/15/04	24	24	0
17	08/17/04	09/22/05	71	24	47
18	05/18/04	08/18/05	47	18	29
19	07/12/04	11/10/04	25	18	7
20	05/10/04	09/19/05	43	17	26
21	04/05/04	09/15/05	98	8	90
22	03/24/04	03/26/04	24	24	0
23	04/27/04	03/14/05	38	28	10
25	08/04/04	09/15/05	68	20	48
26	07/13/04	09/13/05	39	10	29
27	04/27/04	11/10/04	25	20	5
28	08/04/04	09/08/05	78	8	70
31	08/11/04	05/03/05	51	8	43
33	07/21/04	07/21/05	101	16	85
34	05/20/04	07/22/05	68	16	52
35	08/24/04	08/26/04	24	24	0
36	06/01/04	08/31/05	60	26	34
40	03/31/04	08/29/05	24	18	6
42	04/27/04	08/29/05	26	24	2
43	08/11/04	09/29/05	70	8	62
44	08/24/04	04/14/05	80	24	56
45	04/20/04	07/22/05	41	8	33
49	08/24/04	05/06/05	106	24	82
50	05/19/04	09/15/05	52	25	27
51	08/11/04	07/13/05	66	8	58
53	08/11/04	09/20/05	41	8	33
54	05/18/04	04/11/05	28	17	11
55	08/03/04	07/14/05	94	16	78
56	08/24/04	11/18/04	28	24	4
57	08/24/04	09/16/04	28	24	4
58	08/24/04	07/13/05	96	24	72
59	04/27/04	09/15/05	78	8	70
60	08/04/04	09/15/05	25	12	13
61	07/23/04	08/16/05	40	10	30
62	08/24/04	08/30/05	76	24	52
64	08/04/04	12/02/04	32	12	20
65	01/12/04	04/20/05	73	19	54
66	08/04/04	08/31/05	82	12	70
67	03/23/04	01/19/05	30	24	6
68	07/12/04	03/03/05	42	24	18
70	06/23/04	09/19/05	74	8	66
71	05/18/04	03/01/05	36	24	12

FINDINGS AND RECOMMENDATIONS (continued)

Recommendation Agilent Technologies, Inc. must return \$13,395 to ETP. In the future, the Contractor should ensure all training prior to the training start date specified in the Agreement is not submitted to ETP for reimbursement.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 2 – Ineligible Trainee Occupations

Agilent received reimbursement for 17 trainees who were not employed after training in one of the occupations specified in the Agreement. As a result, we disallowed \$13,146 in training costs claimed for these trainees. Noncompliance with trainee occupation requirements was previously disclosed for Trainee Nos. 4, 9, 16, 32, 38, 46, 52, 63, 69, and 72 in our review of ETP Agreement No. ET02-0184.

Exhibit A, Paragraph VII of the Agreement states, “Employment for each trainee shall be in the occupations listed in [the Agreement]...” The occupations identified in the Agreement for Job Nos. 1 and 2 trainees were Administrative Staff, Buyer, Technician, Assembler, Engineer, Production Supervisor, Planner, and Programmer.

Paragraph 5(i) of the Agreement between Agilent and ETP states, “No senior level managers or executive staff who set company policy are included in ETP-funded training under this Agreement.”

Agilent personnel records show 17 trainees were employed during their respective retention periods as senior level managers or executive staff, and not in occupations specified in the Agreement. The table below identifies the retention period and position title per trainee.

Trainee No.	Job No.	Retention Period	Position Title
4	1	02/01/05 - 05/02/05	Research & Development Senior Manager
9	1	06/23/05 - 09/21/05	Research & Development Senior Manager
14	1	06/04/05 - 09/02/05	Research & Development Senior Manager
16	2	02/11/05 - 05/12/05	IT Senior Manager
24	2	08/31/05 - 11/29/05	Marketing Senior Manager
29	2	02/11/05 - 05/12/05	IT Senior Manager
30	1	05/12/05 - 08/10/05	HR Senior Manager
32	1	08/27/05 - 11/25/05	Marketing Senior Manager
37	1	03/25/05 - 06/23/05	Managing Counsel
38	1	05/12/05 - 08/10/05	Marketing Senior Manager
39	2	05/07/05 - 08/05/05	Manufacturing Senior Manager
46	1	09/16/05 - 12/15/05	Marketing Senior Manager
47	1	11/23/04 - 02/21/05	Marketing Senior Manager
52	1	09/21/05 - 12/20/05	Quality Executive
63	2	08/31/05 - 11/29/05	Manufacturing Senior Manager
69	1	08/31/05 - 11/29/05	Marketing Senior Manager
72	1	04/30/04 - 07/29/04	Services & Support Senior Manager

Recommendation Agilent must return \$13,146 to ETP. In the future, the Contractor should ensure all trainees are employed in occupations identified in the Agreement before claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 3 – Agilent's payroll records revealed Trainee No. 41 did not meet full-time employment requirements upon completion of training. Therefore, we disallowed \$1,176 in training costs claimed for this Job No. 2 trainee.
Full-Time Employment Requirement Not Met

Exhibit A, Paragraph VII. A. of the Agreement between Agilent and ETP states, "Each trainee must be employed full-time, at least 35 hours per week, with the Contractor for a period of at least ninety (90) consecutive days immediately following the completion of training. The period shall be completed no later than the last day of this Agreement..."

Agilent reported that Trainee No. 41 completed a post-training retention period from September 3, 2005, through December 2, 2005, and earned a wage rate of \$32.45 per hour. Agilent payroll records show that Trainee No. 41 earned a wage rate of \$31.49 per hour and worked 25 hours per week during the retention period. As a result, Trainee No. 41 failed to work an average of at least 35 hours per week during the post-training retention period.

Recommendation Agilent must return \$1,176 to ETP. In the future, the Contractor should ensure trainees meet post-training retention requirements prior to claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 4 – Trainee employment information shows that Trainee No. 48 did not
Minimum Wage meet the minimum wage requirement specified in the Agreement.
Requirement Not As a result, we disallowed \$1,040 in training costs claimed for this
Met Job No. 1 trainee.

Exhibit A, Paragraph VII. A. of the Agreement between Agilent and ETP states, “Each trainee must be employed full-time... for a period of at least ninety (90) consecutive days immediately following the completion of training... Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement].”

The Agreement required Job No. 1 trainees earn a minimum wage rate of \$14.25 per hour following the post-training retention period. The Agreement did not allow for the addition of health benefits to meet minimum wage requirements.

Although Agilent reported Trainee No. 48 received an hourly wage rate of \$14.34 following the post-training retention period, Agilent payroll records show a wage rate of \$10.02 per hour. As a result, this Job No. 1 trainee failed to meet the minimum wage requirement specified in the Agreement.

Recommendation Agilent must return \$1,040 to ETP. In the future, Agilent should ensure all trainees meet minimum wage requirements before claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 5 – Trainee hourly wage rates reported by Agilent on invoices submitted to ETP were inaccurate. As a result, the Contractor did not comply with the Agreement reporting requirements.

Inaccurate
Reporting

Paragraph 2(d) of the Agreement states, “Contractor shall submit invoices and necessary statistical data to ETP in form and manner prescribed by ETP.” Accurate, complete trainee wage rate information is required to verify compliance with Exhibit A, Paragraph VII. A. of the Agreement. This section states, “Each trainee must be employed full-time... for a period of at least ninety (90) consecutive days immediately following the completion of training... Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement].”

We documented actual trainee wage rates for 83 sample trainees. Actual wage rates were identified from payroll information provided by Agilent. Trainee wage rates reported by Agilent varied by 5 percent or more from actual wage rates for 63 out of 83 trainees (76 percent).

Recommendation In the future, Agilent should ensure all trainee wage rates submitted to ETP are accurate and complete. Inaccurate or incomplete data may result in repayment of unearned funds, plus applicable interest to ETP.

ATTACHMENT A - Appeal Process

4450. Appeal Process.

- (a) An interested person may appeal any final adverse decision made on behalf of the Panel where said decision is communicated in writing. Appeals must be submitted in writing to the Executive Director at the Employment Training Panel in Sacramento.
- (b) There are two levels of appeal before the Panel. The first level must be exhausted before proceeding to the second.
 - (1) The first level of appeal is to the Executive Director, and must be submitted within 30 days of receipt of the final adverse decision. This appeal will not be accepted by the Executive Director unless it includes a statement setting forth the issues and facts in dispute. Any documents or other writings that support the appeal should be forwarded with this statement. The Executive Director will issue a written determination within 60 days of receiving said appeal.
 - (2) The second level of appeal is to the Panel, and must be submitted within 10 days of receipt of the Executive Director's determination. This appeal should include a statement setting forth the appellant's argument as to why that determination should be reversed by the Panel, and forwarding any supporting documents or other writings that were not provided at the first level of appeal to the Executive Director. If the Panel accepts the appeal and chooses to conduct a hearing, it may accept sworn witness testimony on the record.
 - (A) The Panel must take one of the following actions within 45 days of receipt of a second-level appeal:
 - (1) Refuse to hear the matter, giving the appellant written reasons for the denial; or
 - (2) Conduct a hearing on a regularly-scheduled meeting date; or
 - (3) Delegate the authority to conduct a hearing to a subcommittee of one or more Panel members, or to an Administrative Law Judge with the Office of Administrative Hearings.
 - (B) The Panel or its designee may take action to adopt any of the administrative adjudication provisions of the Administrative Procedures Act at Government Code Section 11370 *et seq.*, for the purpose of formulating and issuing its decision. Said action may take place at the hearing, or in preliminary proceedings.
 - (C) Upon completion of the hearing, the record will be closed and the Panel will issue a final ruling. The ruling may be based on a recommendation from the hearing designee. The ruling shall be issued in a writing served simultaneously on the appellant and ETP, within 60 days of the record closure.
- (c) The time limits specified above may be adjusted or extended by the Executive Director or the Panel Chairman for good cause, pertinent to the level of appeal.
- (d) Following receipt of the Panel's ruling, the appellant may petition for judicial review in Superior Court pursuant to Code of Civil Procedure Section 1094.5. This petition must be filed within 60 days from receipt of the Panel's ruling.

Authority: Section 10205(m), Unemployment Insurance Code; Section 11410.40, Government Code.

Reference: Sections 10205(k), 10207, Unemployment Insurance Code.

Effective: April 15, 1995

Amended: December 30, 2006

ATTACHMENT B - Table of Disallowed Trainees

AGILENT TECHNOLOGIES, INC.

AGREEMENT NO. ET04-0467

FOR THE PERIOD

DECEMBER 31, 2003 THROUGH DECEMBER 30, 2005

TRAINEE NO.	NAME	JOB NO.	INVOICE NO.	FINDING NO.	DISALLOWED COSTS
1	Affonso, Alicia	2	16	1	\$ 208
2	Anderson, Sylvie E	2	16	1	\$ 344
3	Andres, Emilie	2	16	1	\$ 104
4	Angelo, Frank P	1	16	2	\$ 320
5	Ashley, Robert	2	16	1	\$ 312
6	Becker, Randall	2	16	1	\$ 156
7	Bruner, Monique	2	16	1	\$ 484
8	Buell, Patrick	2	16	1	\$ 130
9	Burgoon, Robert	1	22	2	\$ 1,436
10	Butler, Danielle	2	16	1	\$ 216
11	Calleja, Ivan	2	16	1	\$ 104
12	Chien, Chen	2	16	1	\$ 344
13	Childers, Elisabeth	2	16	1	\$ 328
14	Chung-Yi, Su	1	21	2	\$ 1,520
15	Chunlei, Dong	2	16	1	\$ 312
16	Cohn, Michael	2	16	2	\$ 412
17	Collins, Patrick	2	16	1	\$ 312
18	Datta, Arun	2	16	1	\$ 234
19	Depaula, Anthony	2	17	1	\$ 325
20	Diez, James	2	17	1	\$ 221
21	Elsesser, Frank	2	17	1	\$ 104
22	Elysabeth, Nguyen	2	17	1	\$ 312
23	Frazer, Robert	2	17	1	\$ 464
24	Gadd, Philip	2	17	2	\$ 728
25	Gillease, Chad	2	17	1	\$ 260
26	Griffin, Michael	2	17	1	\$ 130
27	Haarbauer, Megan	2	17	1	\$ 320
28	Hastings, Mitchell	2	17	1	\$ 104
29	Hauschildt, Todd	2	17	2	\$ 344
30	Helfen, Jane	1	17	2	\$ 872
31	Henicle, Edward	2	17	1	\$ 104
32	Hinch, Stephen	1	17	2	\$ 488
33	Holte, Duane	2	17	1	\$ 208
34	Houghton, Lynne	2	17	1	\$ 208
35	Hurst, Tom	2	17	1	\$ 312
36	Ilsley-Tyree, Diane	2	17	1	\$ 338
37	Jeanine, Mioton	1	21	2	\$ 472
SUB-TOTAL					\$ 13,590

ATTACHMENT B - Table of Disallowed Trainees (continued)

AGILENT TECHNOLOGIES, INC.

AGREEMENT NO. ET04-0467

FOR THE PERIOD

DECEMBER 31, 2003 THROUGH DECEMBER 30, 2005

TRAINEE NO.	NAME	JOB NO.	INVOICE NO.	FINDING NO.	DISALLOWED COSTS
38	Kelly, Timothy	1	18	2	\$ 592
39	Lancaster, Theodore	2	18	2	\$ 396
40	Lemmo, Sabine	2	18	1	\$ 282
41	Money, Kimberly	2	19	3	\$ 1,176
42	Moorehead, J	2	19	1	\$ 328
43	Murdter, Nalini	2	19	1	\$ 104
44	Myong, Anne	2	19	1	\$ 312
45	Nadal, Carlos	2	19	1	\$ 104
46	Narduzzi, Mario	1	19	2	\$ 878
47	Nishiguchi, Reiko	1	19	2	\$ 1,134
48	Oakes, Jonathan	1	19	4	\$ 1,040
49	Peterson, Barbara	2	19	1	\$ 312
50	Phelps, Darin	2	19	1	\$ 117
51	Phommakesone, Say	2	19	1	\$ 104
52	Price, Keith	1	19	2	\$ 1,800
53	Price, Margean	2	19	1	\$ 104
54	Purdy, Thomas	2	19	1	\$ 319
55	Ronalter, Denise	2	19	1	\$ 208
56	Sakai, Yorinobu	2	19	1	\$ 364
57	Schleiger, Jason	2	19	1	\$ 344
58	Schwartz, Joanne	2	19	1	\$ 312
59	Sparks, Jeannette	2	20	1	\$ 104
60	Taber, James	2	20	1	\$ 290
61	Tam, Thomas	2	20	1	\$ 130
62	Tsai, Alice	2	20	1	\$ 312
63	Viskovich, Mike	2	20	2	\$ 812
64	Wache, Kathleen	2	20	1	\$ 396
65	Wade, Frank	2	20	1	\$ 247
66	Ware, Andrew	2	20	1	\$ 156
67	Wei, Wu	2	20	1	\$ 380
68	Wilcox, Alva	2	20	1	\$ 536
69	Wischhusen, Martin	1	20	2	\$ 606
70	Wright, Erica	2	20	1	\$ 104
71	Xie, Tong	2	20	1	\$ 428
72	Zorn, David	1	20	2	\$ 336
SUB-TOTAL					\$ 15,167
TOTALS					\$ 28,757